



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY

NEW YORK, NY 10007-1866

MAR 10 2016

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Article number: 705 1520 0003 0792 0282

Mr. Dave Goff
Plant Manager
Arnold Magnetic Technologies
770 Linden Avenue
Rochester, NY 14625

Re: **NOTICE OF VIOLATION**
RCRA § 3007 Information Request
Arnold Magnetic Technologies - EPA ID No. NYD982541591

Dear Mr. Goff:

The U.S. Environmental Protection Agency (EPA) is charged with the protection of human health and the environment under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 et seq.

Pursuant to RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), the EPA promulgated rules, regulations, and standards governing the handling and management of hazardous waste as set forth in 40 C.F.R. Parts 260-272. For the purposes of this Information Request and Notice of Violation, the hazardous waste regulations governing the generation of hazardous waste were promulgated in 1980 and amended by HSWA in 1984.

The State of New York is authorized by the EPA to conduct a hazardous waste program under Section 3006 of RCRA, 42 U.S.C. § 6926 and is authorized to enforce RCRA. The EPA has retained its authority to enforce the hazardous waste rules and regulations in the State of New York.

The Notice of Violation (NOV) portion of this letter (see Enclosure I) is issued pursuant to Section 3008 of the Solid Waste Disposal Act, as amended by RCRA and HSWA, 42 U.S.C. §§ 6901, 6928. Issuance of this NOV and compliance with its terms does not preclude EPA from taking formal enforcement action against you and/or your company, including a monetary penalty, under Section 3008 of RCRA, 42 U.S.C. § 6928, or any other applicable regulation or statute.

Pursuant to the provisions of Section 3007 of RCRA, 42 U.S.C. § 6927, EPA may require parties who handle or have handled hazardous waste to provide information relating to such wastes. Pursuant to the statutory provisions cited above, EPA hereby requires that you provide the

information requested in Enclosure II, using the instructions and definitions included in Enclosure III. This information is necessary to determine the compliance status of Arnold Magnetic Technologies located at 770 Linden Avenue in Rochester, New York.

Please provide the information requested no later than thirty (30) calendar days from receipt of this letter. Requests for additional time must be justified. Requests for additional time must be made within ten (10) calendar days of receipt of this letter. The response must be signed by a responsible official or agent of your company, using the form in Enclosure IV to this letter.

The response to the request in the Enclosure must be mailed to the following address:

Mr. Ronald Voelkel
Environmental Scientist
RCRA Compliance Branch
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency- Region 2
290 Broadway, 21st Floor
New York, NY 10007-1866

You may, if you so desire, assert a business confidentiality claim covering all or part of the information herein requested. The claim may be asserted by placing on (or attaching to) the information at the time it is submitted, a cover sheet, stamped or typed with the legend, or other suitable form of notice, such as "trade secret," "proprietary," or "company confidential". The claim should set forth the information requested in 40 Code of Federal Regulations (40 C.F.R.) Section 2.204(e)(4). Information covered by such a claim will be disclosed by EPA only to the extent permitted by, and by means of procedures set forth in, 40 C.F.R. Part 2. EPA will review the information to determine the extent of confidentiality of the information, and may, at its discretion, challenge the confidentiality claim pursuant to the procedures set forth at 40 C.F.R. Part 2. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

Failure to respond to this letter truthfully, accurately, and in full within the time provided may subject you to sanction authorized by federal law including, but not limited to, a potential enforcement action pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928. Such enforcement action may include the assessment of a monetary penalty up to \$ 37,500 per day per violation. Please also note that all information you provide may be used in an administrative, civil judicial or criminal action.

This information request is not subject to the requirements of the Paperwork Reduction Act (PRA), as amended, 44 U.S.C. Part 3501 et seq.

For consistency, please provide your answers in a format which is keyed to the sections as outlined in Enclosure III to this letter.

If you have any questions regarding this matter, please contact Mr. Ronald Voelkel at (212) 637-1470 or voelkel.ronald@epa.gov.

Sincerely yours,



for Leonard Voo, Chief
RCRA Compliance Branch
Division of Enforcement and Compliance Assistance

Enclosures:	Enclosure I	Notice of Violation
	Enclosure II	Information Request
	Enclosure III	Instructions & Definitions
	Enclosure IV	Certification of Answers

cc: Kelly Lewandowski, Chief
Site Control Section
New York State Department of Environmental Conservation
625 Broadway, 11th Floor
Albany, NY 12233-7020

Mike Khalil
Environmental Engineer II
Division of Environmental Remediation
New York State Department of Environmental Conservation
6274 East Avon-Lima Road
Avon, NY 14414

ENCLOSURE I

NOTICE OF VIOLATION

Arnold Magnetic Technologies
EPA ID No. NYD982541591

On or about February 23, 2016, duly authorized representatives of the U.S. Environmental Protection Agency (EPA) and the New York State Department of Environmental Conservation (NYSDEC) conducted a RCRA compliance evaluation inspection ("inspection") of Arnold Magnetic Technologies' facility located at 7709 Linden Avenue in Rochester, New York. The objective of the inspection was to determine whether or not Arnold Magnetic Technologies was in compliance with all regulations pertaining to the generation, management, and disposal of hazardous waste.

At the time of the inspections, Arnold Magnetic Technologies was found to be in violation of the following RCRA regulations:

1. 6 NYCRR§ 372.2(b)(1), 372.2(b)(5)(i) requires a generator who transports or offers for transportation hazardous waste must prepare a manifest according to the manifest instructions provided in Appendix 10 of Title 6 NYCRR Part 372, and no generator may offer a shipment of hazardous waste for transport off-site without an accompanying manifest.
2. 6 NYCRR§ 372.2(c)(1)(i) requires a generator must keep a copy of each complete manifest document as a record for at least three years from the date the waste was accepted by the initial transporter.
3. 6 NYCRR § 372.2(a)(2) requires a person who generates a solid waste must determine if that waste is a hazardous waste.

On January 19, 2016, using manifest tracking number 002922153, Arnold Magnetic Technologies shipped 470 lbs. of D001 (ignitable) hazardous waste as "non-DOT regulated material" showing that you incorrectly identified this hazardous waste as a non-RCRA waste. In addition, at the time of the inspection, you were not able to produce complete copies of manifests for review.

4. 6 NYCRR 373-3.3(g)(1)(i) requires owners or operators to attempt to make arrangements where appropriate to familiarize police, fire departments and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to and roads inside the facility, and possible evacuation routes.
5. 6 NYCRR § 373-3.3(g)(1)(iv) requires that owners or operators attempt to make arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions or releases at the facility.

At the time of the inspections, you were not able to provide evidence such as copies of correspondence that shows emergency response teams and the local hospital were contacted and that arrangements were made to familiarize them with any of your facilities operations and the properties of the hazardous waste handled by your operations.

ENCLOSURE II

RCRA § 3007 INFORMATION REQUEST

Arnold Magnetic Technologies
EPA ID No. NYD982541591

QUESTION 1

In regards to the violations cited in the above Notice of Violation (Enclosure I), please provide a description of the actions taken to correct the violations cited in items 1 through 5 and provide documentation verifying that each violation has been corrected. Please note that on February 23, 2016 we received, via email from you, copies of manifests dated November 30, 2015, December 28, 2015, and January 19, 2016 that show that you presently have complete copies of these manifests.

QUESTION 2

On March 31, 2014, Arnold Magnetic Technologies shipped 1,155 gallons of D002 (corrosive) hazardous waste as “non-DOT regulated material”. On January 19, 2016, Arnold Magnetic Technologies shipped 470 lbs. of D001 (ignitable) hazardous waste as “non-DOT regulated material”. At the time of the inspection, when asked whether or not waste fines, generated by tumbling operations in the Tumbling Room, was a hazardous waste, Mr. Larry Benge, Facility Coordinator, responded “I’m not sure.” Also at the time of the inspection, a hand-written note taped on the top of a 55-gallon drum being stored in the hazardous waste storage area, stated “Hold for Larry Benge to determine what this is classified as – coolant & oil mixture from machine center, J.N. 2/17/16, 484 lbs.” indicating that a hazardous waste determination was not made *at the point of generation* for this waste and the contents of the drum may or may not be a hazardous waste and therefore would not have been managed properly after generation. Also, when asked during the closing conference of the inspection how hazardous waste determinations were made, Ms. Nadine M. Marion, Director of Environmental Health and Safety, stated that these determinations were often based of Material Data Sheet (MDS). However, using MDS data does not take into consideration possible contamination or mixing of wastes, i.e. *after use*.

In order to verify that all solid wastes generated by Arnold Magnetic Technologies were/are not RCRA hazardous waste, please provide the following information.

- a. Please provide a detailed description of each activity conducted at the Arnold Magnetic Technologies facility in Rochester, NY that generated solid and/or hazardous wastes (as defined in 40 C.F.R. Part 261) during the period February 2013 to February 2016, inclusive;
- b. Please list the solid and/or hazardous wastes generated from each activity, as indicated in response to Question 2(a), above, including but not limited to all *spent solvents, solvent-contaminated rags, off-spec paints, coolant, lubricants, coolant/lubricant mixtures, coolant/water mixtures, paints, paint thinners, spent filters, off-spec polyurethane enamels, waste epoxy, grinding wastes, tumbling grinds and grit, overspray waste, corrosive wastes,, discarded chemicals, sludge, discarded toner and printer inks, off-spec adhesives, off-spec penetrants, used oil, discarded pesticides, waste petroleum products, spent lamps/bulbs, waste batteries, discarded cathode ray tubes (CRTs, e.g. computer*

monitors) etc.) indicating monthly quantities of each waste, in kilograms, generated during the period February 2013 to February 2016, inclusive.

- c. Provide all analytical results and/or documentation used in determining whether each solid waste stated in response to Question 2(b), above, is or is not a hazardous waste. If generator knowledge of the waste(s) was used to determine that the solid waste was not a hazardous waste, please provide a narrative which details the knowledge employed in making such a determination. If MDS data were used to make hazardous waste/non-hazardous waste determinations, note whether or not it was taken into account that the waste could have been contaminated by other sources from usage.
- d. For each hazardous and each non-hazardous waste described in response to Question 2(a) and 2(b), above, please provide copies of all documentation, including hazardous waste manifests, for the off-site shipment/disposal or treatment of such wastes during the time period February 2013 to February 2016, inclusive. If no such documentation is available, identify each entity (commercial, corporate, or municipal) that received such wastes from your facility, the specific waste that they received, the date(s) each such waste was shipped from each of your facilities, and state the reason(s) for not maintaining such shipping documents at your facility.
- e. For each waste described in response to Question 2(a) and 2(b), above, please specify how each waste was containerized, the location where each container of waste was stored on-site prior to shipment off-site, the length of time each container was stored prior to shipment off-site, and whether or not any of these containers were labeled as hazardous waste during storage.

QUESTION 3

On at least two occasions, Arnold Magnetic Technologies shipped hazardous waste as non-hazardous waste. These discrepancies were for two different types of hazardous waste streams. In order to fully understand the reason for these and perhaps other miss-identifications of hazardous waste, please provide the following information:

- a. Please re-iterate the reason for the misidentification of hazardous waste that occurred on January 19, 2016 when you shipped 470 lbs. of D001 hazardous waste as non-hazardous waste.
- b. Please state the reason for the discrepancy that occurred on March 31, 2014 in which you shipped 1,155 gallons of D002 hazardous waste as non-hazardous waste.
- c. Please provide a list of all misidentification of hazardous waste as non-hazardous waste that occurred during the period January 2013 to January 2016, inclusive. Include in your response (a) the date of shipment; (b) the type of waste that was misidentified; (c) the quantity of each misidentified waste; and (d) the reason for the misidentification of hazardous waste.
- d. Please provide copies of any and all shipping documents for each of the occurrences of misidentifying hazardous waste provided in your response to Question 3(c), above.

ENCLOSURE III

Instructions and Definitions

In responding to this Request for Information, apply the following instructions and definitions:

1. The signatory should be an officer or agent who is authorized to respond on behalf of the company or facility.
2. A complete response must be made to each individual question in this request for information. Identify each answer with the number of the question to which it is addressed.
3. In preparing your response to each question, consult with all present and former employees and agents of the company or facility who you have reason to believe may be familiar with the matter to which the question pertains.
4. In answering each question, identify all contributing sources of information.
5. If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name and last known address and phone number and the reasons for your belief.
6. If you cannot provide a precise answer to any question, please approximate and state the reason for your inability to be specific.
7. For each document produced in response to this Request for Information, indicate on the document or in some other reasonable manner, the number of the question to which it applies.
8. If anything is deleted from a document produced in response to this Request for Information, state the reason for and the subject matter of the deletion.
9. If a document is requested but is not available, state the reason for its unavailability. In addition, identify any such document by author, date, subject matter, number of pages, and all recipients and their addresses.
10. The company and/or facilities for the purposes of this Request for Information is Arnold Magnetic Technologies located at 770 Linden Avenue in Rochester, New York.
11. Hazardous waste shall be defined for the purposes of this Request for Information as that term is defined in Section 1004(5) of RCRA, as amended, 42 U.S.C. Part 6903(5) and in 40 C.F.R., Section 261.3.
12. Manage shall be defined for the purposes of this Request for Information as a market, generate, treat, store, dispose or otherwise handle.

13. Standards applicable to transporters of hazardous waste shall be those as established in 40 C.F.R. Part 263.
14. Hazardous constituents shall be defined as those substances listed in 40 C.F.R. Part 261, Appendix VIII.

ENCLOSURE IV

Certification of Answers to Responses to Request for Information

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, that the submitted information is true, accurate and complete, and that all documents submitted herewith are complete and authentic, unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

NAME (print or type)

TITLE (print or type)

SIGNATURE

DATE